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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,086	04/06/2004	Modest Khovaylo	200311264-2	7108

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

LE, THIEN MINH

ART UNIT PAPER NUMBER

2876

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/820,086

Applicant(s)

KHOVAYLO, MODEST

Examiner

Thien M. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,8,9,12,13,16,17,19,20 and 23 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 6,7,10,11,14,15,18,21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The amendment filed on 3/17/2005 has been entered. Claims 1-3 have been canceled. Newly added claims 4-23 are presented for examination.

#### ***Specification***

The disclosure is objected to because of the following informalities: page 1, lines 12, the U.S. Patent Application No. is missing. Appropriate correction is respectfully required.

#### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings as best scanned are not clear. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "axis of rotation that is moveable relative to the base in a direction transverse to said axis of rotation" as recited in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Curry et al. (Curry et al. – 6,814,293; herein after referred to as Curry).

Regarding claim 4, Curry shows in figure 27 a scanner mounted on a base 722, a pivot axis 732, a cradle 726, and an open area 728. According to Curry, “the user may adjust the position of the scanner by rotating the stalk about its pivot axis 732 on the base 722. Sufficient friction is provided at the pivot axis 732 so that the cradle and scanner remain in any desired position. Once placed in a convenient position, the user may scan a succession of items merely by passing them in front of the scanner window 703. If an item has to be scanned which cannot conveniently be positioned in front of the scanner, the user simply lifts the scanner from the cradle, takes the scanner to the item in question, and returns it once the scan has been completed.” (see the descriptions of figure 27). As can be seen, Curry discloses the claimed invention.

Claims 4--5, 8, 9, 12, 13, 16, 17, 19-20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ring et al. (Ring et al. – 6,460,768; herein after referred to as Ring).

Regarding claim 4, Ring discloses a scanner 20 includes a scan head, or scan module, which is adjustably, rotatably mounted on a scanner tower 24 which is further mounted on a scanner base 26. According to Ring, the scanner includes a scanner housing 21 which is bifurcated into a scan head housing and a tower housing. (see figure 1 and its descriptions). As can be seen, Ring discloses the claimed invention.

Regarding claims 5 and 20, Ring further discloses that “the mounting, or rotational hinged design, is desired to provide a minimum of 90.degree. of rotation between the scan head and the tower, but, because of the presence of harness 36 which extends between scan head 22 and tower 24, is best restricted from full 360.degree. rotation. A compromise position, as set forth in connection with the preferred embodiment, is to provide 270.degree. of rotation between scan head 22 and tower 24.” Ring further discloses the specific of hinge design in col. 6-8 and thus would embrace all limitations set forth in these claims.

Regarding claim 8, Ring discloses that the scanner can be detached from the tower housing for repair and maintenance which thus would embrace all limitations set forth in this claim. (see the summary of the invention; col. 2, lines 60-68 → col. 3, lines 1-12).

Regarding claim 9, see the discussions regarding claims 4 and 5.

Regarding claims 12 and 19, see the discussions regarding claims 4-5, and 8. Specifically, the examiner considered the closed condition as the condition where the

scanner as taught by Ring is fixedly mounted on the tower so that scanning operations can be performed.

Regarding claim 13, see the discussions regarding claim 5.

Regarding claim 16, the scanner as taught by Ring can be used either in fixed or hand-held operations (see summary and background of the invention) which would embrace all limitations set forth in this claim.

Regarding claims 17 and 23, Ring discloses the use of snap-fit guides for snapping the scanner to the tower base which would embrace all limitations set forth in this claim. Further, because the scanner and the tower are snap fitted, the alignments of the corresponding elements are considered as the claimed plurality of guide members (see figures 1, 3, 4 and their descriptions).

### ***Allowable Subject Matter***

Claims 6-7, 10-11, 14, 15, 18, and 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose the claimed scanning assembly having the specific housing details as recited in claim 4, and further comprising a pin, a slot, a recessed position, an extended position, etc., and having the functions and features as recited in claims 6-7, 10-11, 14, 15, 18, and 21-22.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Le, Thien Minh**  
**Primary Examiner**  
**Art Unit 2876**  
**July 19, 2005**